



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/172932

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 17, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly implemented a March, 2016 change report in April, 2016.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received Unemployment Insurance compensation through March of 2016.
3. On March 1, 2016, petitioner contacted the respondent to report that his unemployment benefits were ending.

4. The respondent updated petitioner's income information, and new FS benefits were issued effective April, 2016.

### **DISCUSSION**

When an FS recipient reports a change, the agency handles it differently depending on whether the change will result in an increase or a decrease in FS. 7 C.F.R. §273.12(c). If the change will result in a decrease in FS, the agency should issue a notice informing the client of the decrease effective the next possible month. 7 C.F.R. §273.12(c)(2)(i). The agency must then verify the change prior to the next recertification.

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs.

Petitioner reported on March 1, 2016, that his unemployment benefits were ending, and the agency increased petitioner's FS effective for April, 2016. Petitioner argues that he was told to notify his worker of the end of unemployment benefits in "early March." This he did. He believes that it is unfair that his benefits were not increased in March of 2016; the respondent concedes that this may have happened had he reported the change in February. While that may be true, it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he is not eligible for a benefits change in March, 2016, since that is the month that he reported the change; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

The administrative law judge also reviewed petitioner's FS allotment determinations for April 2016 and could find no errors.

### **CONCLUSIONS OF LAW**

Respondent correctly determined that petitioner's change in household income reported March 1, 2016, would result in increased FS benefits effective April, 2016.

**NOW, THEREFORE, it is** **ORDERED**

That the petition for review is hereby dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 18th day of May, 2016

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 18, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability